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## FISCAL IMPACT REPORT

 NSOR: Atkin DATE TYPED: 01/30/02 HB 391

SHORT TITLE: Boating While Intoxicated Act SB \_\_\_\_\_

ANALYST: Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
NFI					

### SOURCES OF INFORMATION

Energy, Minerals and Natural Resources (EMNRD)

### SUMMARY

#### Synopsis

House Bill 391 amends the Boat Act to add an implied consent provision, which provides that individuals who operate motorboats consent to chemical testing for alcohol and drugs if arrested for acts alleged to have been committed while operating a motorboat under the influence of alcohol or drugs. In addition, HB 391 makes it unlawful for a person who has a blood alcohol concentration (BAC) of .08 to operate a motorboat.

#### Significant Issues

Currently, the Boat Act, although making it unlawful to operate a motorboat while under the influence of alcohol or drugs, lacks a defined blood alcohol concentration. HB 391 would make state law consistent with federal law concerning blood alcohol content.

New Mexico is the only state in the nation that does not have a defined blood alcohol content.

The provisions of this bill differ from New Mexico motor vehicle laws in that this legislation does not make open alcohol containers illegal. Alcohol can be present in a motorboat. This legislation only makes it illegal for the operator of a motorboat to operate while under the influence of alcohol (.08 BAC) or drugs.

## **FISCAL IMPLICATIONS**

EMNRD can absorb any costs that would be incurred to implement the provisions of this bill. However, federal funding for the recreational boating safety program is potentially at risk if New Mexico does not strengthen its laws. Most testing will be breath testing rather than blood testing so it should not significantly increase the Department of Health Scientific Laboratory Division's workload since it processes blood tests.

## **ADMINISTRATIVE IMPLICATIONS**

The long-term effect of this legislation should be a reduction in boating accidents resulting in less time spent on investigations and reporting. This should also reduce time that is spent in trials where the State is not obtaining convictions because of the difficulty in proving intoxication because of the lack of a defined BAC. There is no change in FTE requirements as a result of HB 391.

## **DUPLICATION**

Duplicates SB 54, Boating While Intoxicated Act

DJW/ar